

Internal Revenue Service
memorandum

date: JAN 11 1991

to: Director, Internal Revenue Service Center
Kansas City, MO
Attn: Entity Control

from: Technical Assistant
Employee Benefits and Exempt Organizations

subject: CC:EE:3 - TR-45-1347-90
Railroad Retirement Tax Act Status

Attached for your information and appropriate action is a copy of a letter dated October 05, 1990, from the Railroad Retirement Board concerning the status under the Railroad Retirement Act and the Railroad Unemployment Tax Act of the:



We have reviewed the opinion of the Railroad Retirement Board and, based solely upon the information submitted, concur in the conclusion reached by the Board that [REDACTED] is not an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

(Signed) Ronald L. Moore

RONALD L. MOORE

Attachment: Copy of letter from
the Railroad Retirement Board

cc: Mr. Gary Kuper
Internal Revenue Service
200 South Hanley
Clayton, MO 63105

008873

UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
844 RUSH STREET
CHICAGO, ILLINOIS 60611

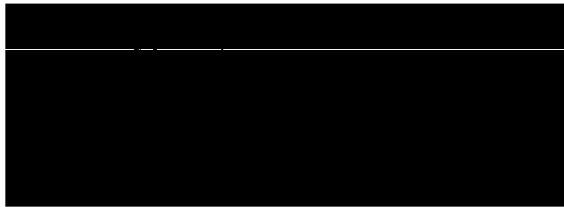
BUREAU OF LAW

Assistant Chief Counsel
(Employee Benefits and
Exempt Organizations)
Internal Revenue Service
1111 Constitution Avenue., N.W.
Washington, D.C. 20224

Attention: CC:IND:1:3

Dear Sir:

In accordance with the coordination procedure established between the Internal Revenue Service and this Board, I am enclosing for your information a copy of an opinion in which I have expressed my determination as to the status under the Railroad Retirement and Railroad Unemployment Insurance Acts of the following:



Sincerely yours,



Steven A. Bartholow
Deputy General Counsel

Enclosure

MEMORANDUM

SEP 20 1990

TO: Director of Research and Employment Accounts

FROM: Deputy General Counsel

SUBJECT: [REDACTED]
Employer Status

This is in response to your Form G-215 dated [REDACTED] wherein you requested my opinion as to the status of the [REDACTED] as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts. The employer status of [REDACTED] has not previously been considered.

Your inquiry was based on a notice published in the Federal Register on [REDACTED], stating that [REDACTED] had filed a Notice of Exemption to operate as a Class III rail carrier over an existing spur track owned by it between [REDACTED]. This proposed railroad was to haul coal from an interchange with the [REDACTED], an employer covered under the Acts, to a power plant operated by [REDACTED]. The distance from the interchange to the generating plant is approximately [REDACTED] miles, located entirely in the state of [REDACTED].

The [REDACTED] has never formed the proposed railroad. According to a telephone conversation with [REDACTED], [REDACTED] still intends to form such a railroad, but the time frame for doing so is still indefinite. At this time, the coal is delivered to the plant by [REDACTED]. Consequently, at this time [REDACTED] is not operating a railroad. The [REDACTED] is merely a customer of a railroad.

Therefore, in my opinion the [REDACTED] is not and has not been an employer under the Acts administered by the Board as of the date of this decision. If the [REDACTED] should form a railroad operation in the future and begin actual rail operations pursuant to its ICC authority to do so, please resubmit the matter to this bureau for further consideration.


Steven A. Bartholow